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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,828	04/12/2001	Michal Kahan	Q60535	1955

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EXAMINER	
HANNE, SARA M	
ART UNIT	**PAPER NUMBER**
2179	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

MN

Office Action Summary	Application No.	Applicant(s)	
	09/832,828	KAHAN ET AL.	
	Examiner	Art Unit	
	Sara M. Hanne	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,7,8,10,11,14-23,26-31,34-41 and 43-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,7,8,10,11,14-23,26-31,34-41 and 43-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-4, 7, 8, 10, 11, 14-23, 26-31, 34-41 and 43-54 are pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 14-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14-18 recite an executable program comprising pieces of executable code. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and cannot be realized as a statutory entity, and therefore is nonstatutory functional descriptive material.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-4, 7, 8, 11, 14-17, 19-23, 26-29, 31, 34-41, 43-45, and 47-53, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, US Patent 6546002 and further in view of McNamar et al., US Patent 7089202 hereinafter McNamar.

As in Claims 1, 14, 19, 34 and 47, Kim teaches aggregating content from a server to a mobile terminal of a subscriber (ref. 1525) comprising transmitting from the server, a provisioning profile associated with the subscriber to an outside application executing on a data item computer (Fig. 3, 4 with corresponding text), receiving at the server, data items from a outside application executing on a data item computer (Col 9, lines 23 et seq.) including personalized information transmitted to the subscriber where a portion of the received data items comprised personalized information transmitted to the subscriber according to the provisioning profile associated with the subscriber (Fig. 3, 4 with corresponding text) arranging at the server, the received data items for display according to a plurality of subscriber-selected presentation rules (Col. 11, line 1 et seq.), wherein each data item is associated with a generic action menu or an application specific menu corresponding to the outside application executing on the data item computer (Col. 10, line 40 et seq.) and transmitting from the server, the arranged data items to the mobile terminal of the subscriber (Col. 16, lines 12 et seq.).

While Kim teaches such a system, they fail to explicitly teach the personalized information to be pushed to the subscriber from the server as recited in the claims. McNamar teaches a networked system for data transmission of a personalized page similar that of Kim. In addition, McNamar further teaches the personalized information to be pushed to the subscriber from the server (Col. 25, lines 44 et seq.). It would have been obvious to one of ordinary skill in the ad, having the teachings of Kim and McNamar before him at the time the invention was made, to modify the mobile system taught by Kim to include the personalized information to be pushed to the subscriber from the server of McNamar, in order to obtain a server initiated push of a personalized information, arranged at the server according to subscriber-selected presentation rules, to the subscriber terminal. One would have been motivated to make such a combination because a way to provide pre-selected information to the user when it becomes available without the user having to continuously access the site until it is available would have been obtained, as taught by McNamar (Col. 26, lines 1-7).

As in Claims 2, 15 and 20, Kim teaches updating the provisioning profile based on a command received from the mobile terminal (Fig. 7 and corresponding text)

As in Claims 3, 16, 22, 29 and 38, Kim further teaches updating the provisioning profile by transmitting this command to the control server to update a presentation rule with one of the data items with the wireless gateway and using a controller (Fig. 7 and corresponding text).

As in Claims 4, 23 and 39, Kim teaches the control server storing the updated provisioning profile in a subscriber database and further in reference to Claim 39, on the database server (Fig. 7, ref. 542-546 and corresponding text).

As in Claims 7, 26 and 43, Kim teaches the control server storing the received data items in a terminal subscriber's database (Fig. 3,4 and corresponding text) by the control server as in further reference to Claim 43.

As in Claims 8, 17, 27-28, 44-45 and 52-53, Kim teaches an application adapter translating the received data item to comply with the application interface contract if it does not already (Col. 8, line 36, et seq.).

As in Claim 11, Kim teaches the formatted data item to be transmitted to the to the receiving terminal, and furthermore by using a data communications protocol (Col. 8, line 36, et seq.).

As in Claims 21 and 37, Kim teaches the wireless gateway to receive a command from the mobile terminal (cellular requires wireless connection).

As in Claim 31, Kim teaches the wireless gateway to transmit data items to the terminal (cellular requires wireless connection).

As in Claims 35 and 48, Kim teaches an operator platform for accessing the subscriber's profile (Fig. 3, 4 and corresponding text).

As in Claims 36 and 49, Kim teaches a wireless gateway connected to the web server (it is common to one of ordinary skill in the ad for a web server to be connected to a wireless gateway as suggested in Col. 6, line 22 et seq.).

As in Claims 40 and 50, Kim fails to explicitly teach a short message service center connected to the control server as recited in the claims. Within the field of the invention, it would be obvious to one of ordinary skill in the art to provide a SMS center with a cellular network. One would have been motivated to make such a combination because a communication system to cellular subscriber would have been obtained.

As in Claims 41 and 51, Kim teaches an IVR (Interactive voice response) server (Col. 6, line 46 et seq.).

7. Claims 10, 18, 30, 46 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Kim, US Patent, McNamar et al., US Patent 7089202 hereinafter McNamar and in further view of Gerace, US Patent 5848396.

As in Claims 10, 18 and 30, Kim and McNamar teach a mobile networking system that edits and sends data from the provider application according to ' user-updateable profiles, associating each data item with a generic action menu or an application specific menu and pushing the personalized information to the subscriber from the server as seen supra. While Kim and McNamar teaches such a system, they fail to explicitly teach the generating of a terminal subscriber home page according to a presentation rule associated with the data items as recited in the claims. Gerace teaches a networked system for data transmission according to user profiles similar to that of Kim and McNamar. In addition, Gerace further teaches a control server (ref 79) which generates a subscriber home page according to a user's presentation rule in the profile (Figure 4a, and corresponding text). It would have been obvious to one of ordinary skill in the ad, having the teachings of Kim, McNamar and Gerace before him

at the time the invention was made, to modify the networked system with push technology for providing personalized information to a subscriber terminal taught by Kim and McNamar to include the home page generation according to user defined performance rules of Gerace, in order to obtain a user-defined automatic dynamic homepage for a mobile system. One would have been motivated to make such a combination because a more personalized system for obtaining web information would have been obtained, as taught by Gerace.

As in Claims 46 and 54, Kim and McNamar teach a mobile networking system that edits and sends data from the provider application according to user-updateable profiles and associating each data item with a generic action menu or an application specific menu as seen supra. While Kim and McNamar teach such a system for obtaining data items and generating a home page according to the user's profile and rules, they fail to show the sending of a terminal subscriber home page to the web server as recited in the claims. Gerace teaches a networked system for data transmission according to user profiles similar to that of Kim and McNamar. In addition, Gerace further teaches transmitting the Home Page to the web server (Fig. 1 and corresponding text). It would be obvious to one of ordinary skill in the art, having the teachings of Kim, McNamar and Gerace before him at the time the invention was made, to modify the networked system with push technology for providing personalized information to a subscriber terminal taught by Kim and McNamar to include the transmitting of the Home Page to the web server of Gerace in order to obtain a pushed web transmission of a customized menu. One would have been motivated to make such

a combination in order to keep a global ' copy of the generated page if the user wished to access it from other devices on the same provider or to share the user's formatted page with other users.

Response to Arguments

Applicant's arguments filed 11/13/07 have been fully considered but they are not persuasive.

In response to the applicant's arguments regarding the 101 rejection, the examiner disagrees. Software that is not executed on some sort of computer readable medium, and that is intended to be used to create a display does not actually do anything.

Kim does teach providing information to a mobile terminal. McNamar describes an advantage of a push-based system. In combination they teach the claim limitations.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would see the advantage of including the push technology of McNamar in a wide array of technologies.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara M. Hanne whose telephone number is (571) 272-4135. The examiner can normally be reached on M-F 7:30am-4:00pm, off on alternating Fridays.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WEILUN LO can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

smh

Weilun

WEILUN LO
SUPERVISORY PATENT EXAMINER